

THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FRANK KRAMMES TIMBER  
HARVESTING, INC.,

Plaintiff,

v.

3:18-CV-1914  
(JUDGE MARIANI)

LETOURNEAU ENTERPRISES, LLC,

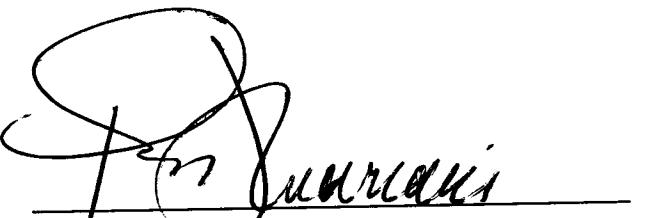
Defendant.

ORDER

AND NOW, THIS 30<sup>th</sup> DAY OF SEPTEMBER, 2019, upon *de novo* review of Magistrate Judge Carlson's Report and Recommendation ("R&R") (Doc. 17), Plaintiff's objections thereto (Doc. 18), and all relevant briefs, **IT IS HEREBY ORDERED THAT:**

1. The R&R (Doc. 17) is **ADOPTED AS MODIFIED** for the reasons set forth in the accompanying memorandum opinion.
2. Defendant's Motion to Dismiss Counts I, II, and III of Plaintiff's Complaint Pursuant to Federal Rule of Civil Procedure 12(b)(6) (Doc. 2) is **GRANTED** as follows:
  - a. Defendant's motion to dismiss Count I is **GRANTED**. Count I of Plaintiff's Complaint is **DISMISSED WITH PREJUDICE**.
  - b. Defendant's motion to dismiss Counts II and III is **GRANTED**. Counts II and III of Plaintiff's Complaint are **DISMISSED WITHOUT PREJUDICE**.

3. Plaintiff is granted leave to file an Amended Complaint within **21 days** of the date of this Order to file an Amended Complaint as to those Counts dismissed without prejudice.



\_\_\_\_\_  
Robert D. Mariani  
United States District Judge